

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

**ROBERT E. WOODWARD,
ADC #0452670**

PLAINTIFF

v.

Case No. 5:19-cv-00005-KGB

**JAMES GIBSON, Warden; and
WENDY KELLEY, Director, ADC**

DEFENDANTS

ORDER

Before the Court are two Proposed Findings and Recommendations submitted by United States Magistrate Judge Joe J. Volpe (Dkt. Nos. 5, 18). Plaintiff Robert E. Woodward filed objections to the first Proposed Findings and Recommendations (Dkt. No. 6). Mr. Woodward and defendants have filed several other documents and pending motions (Dkt. Nos. 8, 12, 19, 20). The Court has reviewed Judge Volpe's two Proposed Findings and Recommendations, Mr. Woodward's objections, all other filings, and the record *de novo*. The Court determines that Judge Volpe's first Proposed Findings and Recommendations should be denied as moot (Dkt. No. 5) and that the second Proposed Findings and Recommendations should be adopted in their entirety as this Court's findings in all respects (Dkt. No. 18).

In the first Proposed Findings and Recommendations, Judge Volpe determines that Mr. Woodward's underlying complaint should be dismissed without prejudice for failure to state a claim upon which relief can be granted (Dkt. No. 5, at 5). After Judge Volpe submitted his first Proposed Findings and Recommendations, the parties resolved this case, and several other cases filed by Mr. Woodward, through settlement (Dkt. No. 8). Because the parties resolved this case through settlement before this Court ruled on the first Proposed Findings and Recommendations, the Court denies the first Proposed Findings and Recommendations as moot and will not count this

dismissal as a “strike” for purposes of 28 U.S.C. § 1915(g) (Dkt. No. 5).

In the second Proposed Findings and Recommendations, Judge Volpe recommends that Mr. Woodward’s motion to withdraw settlement be denied (Dkt. No. 12) and that the joint motion to dismiss be granted (Dkt. No. 8). Mr. Woodward filed a motion to amend judgment and a reply, which this Court interprets as objections to Judge Volpe’s Proposed Findings and Recommendations (Dkt. Nos. 19, 20). Having considered all matters presented, this Court adopts the second Proposed Findings and Recommendations (Dkt. No. 18).

It is therefore ordered that:

1. The Court denies as moot the first Proposed Findings and Recommendations, given the settlement the parties reached (Dkt. No. 5);
2. The Court adopts the second Proposed Findings and Recommendations (Dkt. No. 18);
3. The Court grants the parties’ joint motion to dismiss with prejudice (Dkt. No. 8);
4. The Court denies Mr. Woodward’s motion to withdraw settlements (Dkt. No. 12);
5. The Court denies Mr. Woodward’s motion to amend judgment (Dkt. No. 19);
6. The Court dismisses with prejudice Mr. Woodward’s complaint and denies the relief he requests; and
7. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from this Order would not be taken in good faith.

It is so ordered this 10th day of February, 2020.

A handwritten signature in black ink, reading "Kristine G. Baker". The signature is fluid and cursive, with the first name "Kristine" and last name "Baker" clearly legible.

Kristine G. Baker
United States District Judge